

BEFORE THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE

CONSUMER ADVOCATE DIVISION)

vs.)

BELLSOUTH TELECOMMUNICATIONS,)
INC.)

Docket No. _____

Tariff 99-00574

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EXECUTIVE SECRETARY

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ISSUES MATRIX

I.

**WHAT LEGAL AUTHORITY PERMITS THE TENNESSEE REGULATORY
AUTHORITY TO APPROVE BELLSOUTH'S PROPOSED LATE PAYMENT TARIFF?**

1. What is the specific source of authority which authorizes the Tennessee Regulatory Authority to increase rates for local basic exchange service?

a. None exists.

2. What is the specific source of authority which authorizes the Tennessee Regulatory Authority to increase recurring or nonrecurring charges associated with local basic exchange service?

a. None exists.

3. What is the specific source of authority which authorizes BellSouth to increase rates for local basic exchange service?

a. None exists.

4. What is the specific source of authority which authorizes BellSouth to increase recurring or nonrecurring charges associated with local basic exchange service?

a. None exists.

5. What is the specific source of authority for BellSouth to charge consumers for items not associated with the provision of telecommunications service?

a. None exists.

6. When the General Assembly provided specific instances in which the Tennessee Regulatory Authority is authorized to set rates after a company applies for price regulation, would the Tennessee Regulatory Authority exceed its statutory authority if it sets rates in other instances?

a. Yes.

7. What is the specific source of authority for BellSouth to charge Tennessee consumers for late payments made for the provision of services or things by other telecommunications service providers?

a. None exists.

8. Whether the regulation of telecommunications companies encompasses the regulation of all rates and charges associated with the provision of telecommunications service?

a. Yes.

9. Is BellSouth's proposed late payment charge a rate for a telecommunications service?

a. Yes. Distinction without a difference in treatment.

10. What is the legal standard for determining whether a proposed charge is just and reasonable?

a. The relationship of the costs incurred to the associated rate or charge.

11. Does a price regulation plan or any other authority authorize BellSouth to increase the rates and charges associated with the provision of services provided by competing telecommunications service providers?

a. No.

12. What is the source of authority for requiring Tennessee consumers to pay increased rates or charges to BellSouth for its "expenses" when BellSouth elects to bill them for other telecommunications services providers?

II.

IS BELL SOUTH'S PROPOSED LATE PAYMENT CHARGE A RATE OR CHARGE FOR A TELECOMMUNICATIONS SERVICE?

III.

IF BELLSOUTH'S PROPOSED LATE PAYMENT CHARGE IS NOT A RATE OR CHARGE FOR A TELECOMMUNICATIONS SERVICE OR SERVICES, IS THE CHARGE SUBJECT TO REGULATION BY THE TENNESSEE REGULATORY AUTHORITY?

IV.

IF BELLSOUTH'S PROPOSED LATE PAYMENT CHARGE IS A RATE OR CHARGE FOR A TELECOMMUNICATIONS SERVICE OR SERVICES DOES IT CONSTITUTE AN INCREASE IN BASIC LOCAL EXCHANGE TELEPHONE SERVICES OR NON-BASIC SERVICES?

1. Do rates have meaning only when one knows the services and things which are provided at those rates?

Yes? Common sense and legal authority is consistent with this principle.

2. Before June 6, 1995 did rates have meaning only when one knows the services and things which are provided at those rates?

See, position above.

3. After June 6, 1995 do rates have meaning only when one knows the services and things which are provided at those rates?

4. Is the principle that rates have meaning only when one knows the services and things provided at those rates applicable to companies which apply for price regulation?

For issues 3 and 4 see the response at issue 1 above.

5. Did the General Assembly intend that the rates for local basic exchange services include both recurring and nonrecurring charges?

a. Yes. See, e.g. Tenn. Code Ann. § 65-5-208 (a)(1).

6. Did the General Assembly intend that recurring and nonrecurring charges associated with local basic exchange service be included in Tenn. Code Ann. § 65-5-208 (a)(1)?

a. Yes.

7. Did the General Assembly set a rate for local basic exchange service which did not provide the services and things associated with the service before and on June 6, 1995?

a. No.

8. What services and things were provided at no additional charge or a recurring or nonrecurring charge with local basic exchange service before and on June 6, 1995?

a. The Consumer Advocate Division contends that a host of services and things were provided at no additional charge including, but not limited to, late payments, repair service, directory services, directories, complaint procedures, access to 911, access to long distance service, service connection, etc.

9. Was the economic cost to BellSouth for late payments considered and incorporated into the rates of BellSouth in effect prior to and on June 6, 1995?

a. Yes.

10. Was the economic benefit to consumers from late payments considered and incorporated into BellSouth's rates and charges in effect prior to and on June 6, 1995?

a. Yes.

11. Did compensation to BellSouth for late payments (and benefits to consumers) in effect prior to and on June 6, 1995 consider and incorporate, as recurring and nonrecurring charges, the charges associated with providing local basic exchange services?

a. Yes.

12. Would implementing a late payment charge be adding to or increasing recurring and nonrecurring charges for local basic exchange services?

a. Yes.

13. What is the economic value of late payments to consumers?

a. Needs to be determined if case proceeds.

14. What was the economic value of late payments to consumers on June 6, 1995, December 1, 1998 and December 9, 1998?

a. Needs to be determined if case proceeds.

15. Did compensation to BellSouth by Tennessee consumers incorporate the economic value of late payments to consumers on June 6, 1995, December 1, 1998 and December 9, 1998?

a. Yes.

V.

DOES THE FACT THAT BELLSOUTH DID NOT SEEK ANY RATE INCREASES ADJUSTMENTS DURING THE PROCEEDINGS ADDRESSING ITS APPLICATION FOR PRICE REGULATION ESTOP BELLSOUTH FROM IMPLEMENTING ITS PROPOSED LATE PAYMENT TARIFF?

1. Is the doctrine of laches applicable to BellSouth?

a. Yes.

2. Is the doctrine of waiver applicable to BellSouth?

a. Yes.

3. Did BellSouth have the opportunity to seek a contested case to set its initial basic and nonbasic rates and charges associated with service under a price regulation plan?

a. Yes.

4. If BellSouth had the opportunity to ask the Tennessee Regulatory Authority to set its initial rates and charges during its application for price regulation but did not, has the company waived or is it estopped by laches from now changing rates associated with local basic exchange service?

a. Yes, changes in rates now would result in an increase in the local basic exchange service rate.

5. Will Tennessee consumers be prejudiced if BellSouth is permitted to add to its compensation for late payments when compensation to the company is already encompassed in BellSouth's rates?

a. Yes.

6. Should BellSouth be estopped from asserting or alleging that its proposed late payment charges are not rates for telecommunications service?

a. Yes.

VI.

**IS BELL SOUTH'S PROPOSED LATE PAYMENT CHARGE UNJUSTLY,
UNREASONABLY, OR UNDULY PREFERENTIAL OR DISCRIMINATORY?**

Yes.

VII.

**IS BELL SOUTH'S PROPOSED LATE PAYMENT CHARGE JUST AND
REASONABLE?**

1. Does BellSouth's proposed late payment charge constitute a permissible increase to non-basic local exchange telephone services when compensation for late payments is already encompassed in current rates and the company does not propose an offset?

2. As a matter of law, was the compensation to BellSouth by Tennessee consumers for the economic value of late payments on June 6, 1995, December 1, 1998 and December 9, 1998 deemed just and reasonable?

a. Yes. See, e.g. Tenn. Code Ann. §§ 65-4-123; 65-5-208 (a); 65-5-209 and BellSouth v. Greer, 972 S.W.2d 663, 674-675, 682.

3. If the compensation to BellSouth for late payments on June 6, 1995, December 1, 1998 and December 9, 1998 was deemed just and reasonable what are the grounds or basis for increasing that compensation?

a. None exists.

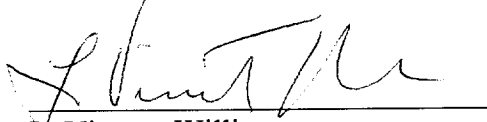
4. If the compensation to BellSouth by Tennessee consumers for the economic value of late payments to consumers on June 6, 1995, December 1, 1998 and December 9, 1998 was deemed just and reasonable, are increases to that compensation without offsetting adjustments unjust and unreasonable?

a. Yes.

5. When compensation to BellSouth exceeds a just, reasonable and affordable amount is BellSouth prohibited from increasing its rates?

a. Yes.

Respectfully Submitted,



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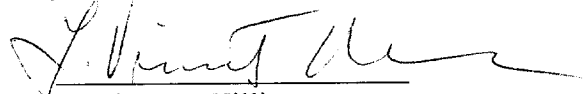
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Certificate of Service

I hereby certify that a true and correct copy of the foregoing Document has been mailed postage prepaid to the parties listed below this 7th day of December, 1999.

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